

MT LEGISLATIVE HISTORY

Chapter 245 19 74

Bill H (S) 710

Original bill & hist. C

H. Committee on Business & Industry

S. Committee on Business & Industry

Hearing Date(s) FEB 25 ✓

Hearing Date(s) FEB 1 1968

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Date Out _____ C _____

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Did this bill originate in an interim committee? Yes No

Committee

Report _____

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MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

February 1, 1974

The ninth meeting of the Business and Industry Committee was called to order by Chairman DeWolfe on the above date in Room 415 of the State Capitol Building at 11 a.m.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL 710: Montana model life and health insurance guaranty association act.

Senator Drake stated that the purpose of this act is to insure. Sonny Omholt, State Auditor, submitted written testimony in favor of the bill. Josephine M. Driscoll, also of the State Auditor's office stated that she concurred with Sonny Omholt's statements.

Phil Bird testified in opposition to the bill. He stated that he felt policy holders would be penalized. Mr. Bird also suggested that an amendment would be in his favor.

Sonny Omholt stated that he had no objections to Mr. Bird's suggested amendment.

DISPOSITION OF SENATE BILL 710:

Senator Drake moved that the amendment on page 25, line 18 and also the renumbering of the section be adopted. Senator DeVine seconded the motion and it carried.

Senator DeVine moved that the bill AS AMENDED DO PASS and Senator Goodheart seconded the motion. Motion carried.

CONSIDERATION OF SENATE BILL 700: Christmas club types of savings plans be treated as regular savings accounts.

DISPOSITION OF SENATE BILL 700:

The committee out of courtesy to the author deferred action.

CONSIDERATION OF SENATE RESOLUTION 47: Encouraging the Wally BYAM caravan club international to visit Montana whenever possible.

Senator Boylan, author, testified in support of the bill stating how the Wally BYAM Caravan Club was appreciated in the town of Bozeman. Other committee members agreed.

DISPOSITION OF SENATE RESOLUTION 47:

Senator McGowan moved that the bill DO PASS and Senator Goodheart seconded the motion. Motion carried.

ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

SECOND HALF - 43rd LEGISLATIVE SESSION 1974

Date 2-1-74

NAME	PRESENT	ABSENT	EXCUSED
Vice-Chairman McGowan	X		
Fred Broeder	X		
Jack DeVine	X		
B. J. Goodheart Malcolm Romney	X		
Frank Hazelbaker	X		
Glen Drake	X		
P. J. Keenan	X		
William Lowe	X		
Jimmy Shea	X		
Antoinette Rosell	X		
Chairman Percy DeWolfe	X		

COMMITTEE ON BUSINESS AND INDUSTRY

BILL NO.

VISITOR'S REGISTER

[illegible]

(Please leave prepared statement with Secretary)

of American Life Insurance Association is opposed to the National Model Life and Health Insurance Guaranty Association Act for the following reasons:

The emphasis should be placed on more effective state regulations to prevent insolvency.

(c) Higher capital and surplus requirements

- (a) Insurance companies initiating more conservative policies to recover any weakness.
- (b) Weaker parties should be then required to face problems head-on.
- (d) The insurance companies' offices should not have their eyes to stiffer regulations.

(2) The bill is unfair to policy holders of sound life insurance companies.

(3) The unfairness is compounded because of the long term nature of a life insurance contracts. Adjustments must be made as they can be made in the property and casualty field and their short term contracts.

(4) The ALIA feels that the bill is an addition to the inadequacy the states insurance regulations and therefore putting the burden on the policy holder instead.

NEW SEC. 17. TAX. CERTIFICATES OF CONTRIBUTION.

- (1) Unless a longer period has been allowed by the commissioner, a health insurer shall at its option have the right to show a certificate of contribution as an asset in the form approved by the commissioner pursuant to sec. 9 (7), at percentages of the original face amount approved by the commissioner, for calendar years as follows:

100%	for calendar year of issuance,
80%	for the 1st calendar year after year of issuance,
60%	for 2nd calendar year after year of issuance,
40%	for 3rd calendar year after year of issuance,
20%	for 4th calendar year after year of issuance.

- (2) The insurer may offset the amount written off by it in the calendar year under sub-section (1) offset against its premium tax liability to this state accrued with respect to business transacted in such year.

- (3) Any sums acquired by refund, pursuant to section 9 (6), from the Associations which have therefore been written off by contributing insurer, and offset against premium taxes as provided in sub-section (2) above, and is not then needed for purposes for this act, shall be paid by the Association to the commissioner and by him deposited with the state treasurer for credit to the general fund of this state.

SENATE BILL NO. 710

Introduced by: Drake, Hazelbaker, Carl, James, Moore, Lynch, Shea, Zody

A BILL FOR AN ACT ENTITLED: "MONTANA MODEL LIFE AND HEALTH INSURANCE
GUARANTY ASSOCIATION ACT."

In the interests of Consumer Protection, many years have been devoted by the National Association of Insurance Commissioners (NAIC) to the preparation of the Model Life and Health Insurance Guaranty Association Act.

Connecticut, Kansas, Maryland, Nevada, New York, South Carolina, Texas, Vermont, Washington and Wisconsin have enacted life and health insurance guaranty legislation. California, Illinois, Colorado, Minnesota and Arizona have legislation pending at the present time. To our knowledge, there have not been any states in which such legislation was introduced and NOT passed.

This Act is to be distinguished from the Insurance Guaranty Association Act of 1971 which specifically excluded life and disability insurance. Unlike property and liability situations, life and annuity contracts in particular are long term arrangements for security. An insured may be in impaired health or at an advanced age so as to be unable to obtain new and equivalent coverage from other insurers. The payment of cash values alone does not adequately meet such needs. Thus it is essential that coverage be continued. In like manner, an insured may be unable to obtain new health insurance, or, at least, he may lose protection for prior illness.

This Act does not apply to reinsurance, - only to direct insurance issued by persons authorized to transact insurance in this state at any time. Coverage issued by insurers which have not submitted to the

application the state's regulatory safeguards is excluded from protection by this Act.

"Impaired insurers" are defined to include (a) an insolvent insurer under an order of liquidation, rehabilitation, or conservation, or (b) an insurer deemed by the Commissioner to be unable or potentially unable to fulfill its contractual obligations.

This Act enables the Association to become involved prior to an actual court order. The finding by the Commissioner that an insurer is impaired, even though not subject to a court proceeding, serves as a triggering mechanism enabling the Association to function. The powers and Duties of the Association are to guarantee, assume, or reinsure, or cause to be guaranteed, assumed or reinsured, the covered policies of the impaired insurer.

The Association also aids in the detection and prevention of insurer impairments. These are basically the ~~same~~ prevention functions found in the property and liability guaranty act.

E. V. "SONNY" OMHOLT
STATE AUDITOR & EX OFFICIO
COMMISSIONER OF INSURANCE

(Note: The NAIC Task Force has instructed their Standing Committee to keep informed and study further into the problems of guaranty acts and to determine whether recommendations should be made for changes in the NAIC Model Act at any future date, should unanticipated situations arise.)

LIFE AND DISABILITY GUARANTY FUND (B5) SUBCOMMITTEE

Reference

1971 Proc. Vol II p 336

1972 Proc. Vol I p 488

Clay Cotten, Chairman, Texas

John G. Bookout, Vice Chairman, Alabama

AGENDA

1. Consideration of changes in the NAIC Model Life Guaranty Act.
2. Any other matters submitted for consideration.

The Life and Disability Guaranty Fund (B5) Subcommittee met in the Empire Room of the Hilton Hotel, Denver, Colorado, at 3:00 p.m., on June 12, 1972.

The meeting was called to order by the Chairman, Clay Cotten. The Chairman determined that a quorum was present.

The Chairman noted that although the Model Act was adopted by the NAIC in December 1970, only six states have adopted legislation in substantially the form of the model act. It was further noted 47 states have legislation modeled substantially after the NAIC Model Property and Liability Guaranty Association Act. The NAIC has recognized the need for guaranty acts in the Life and Disability field as well as the Property and Liability field. It has recommended that the NAIC as a body encourage the adoption of such legislation in states which have not legislated in this area. It was suggested that a Task Force should be created to determine whether improvements or changes should be made in the NAIC Model Life and Disability Guaranty Act to achieve wider acceptance and adoption by the various states. Therefore, the following resolution was adopted:

That a Task Force Consisting of both Commissioners and industry representatives be appointed by the Chairman of this Subcommittee to study further into the problems of guaranty acts for Life and Disability Insurance and to determine whether recommendations should be made for changes in the NAIC Model Act.

It was the consensus of the Subcommittee that this action should not deter any state from enacting the NAIC Model Bill in its present form. It was the further consensus of the Subcommittee that this study should be concluded and recommendations made at the December 1972 meeting of the NAIC in Atlanta, Georgia, so that the recommendations could be considered and acted upon by NAIC prior to the convening of the 1973 legislative sessions of the various states.

There being no further discussions, the meeting was adjourned.

Hon. Clay Cotten, Chairman, Texas; Hon. John G. Bookout, Vice Chairman, Alabama; Hon. Millard Humphrey, Arizona; Hon. J. Richard Barnes, Colorado; Hon. Johnnie T. Carter, Georgia; Hon. W. Fletcher Bell, Kansas; Hon. Thomas J. Hatem, Maryland; Hon. H. Carter, Jr., Tennessee; Hon. Robert Hay, Idaho; Hon. Stanley C. DuRose, Wisconsin.

NAIC Model Bill, in substance, full tax offset
 Similar to NAIC Model Bill, no tax offset
 Applicable to all lines of insurance, no tax offset

Following states have life and health insurance guaranty legislation pending:

Remarks

1075 No tax offset (See ACA69)

1076 (passed H.) No tax offset

1077 No tax offset

1078 (carry over)

1079 No tax offset

1080 No tax offset

It was moved and adopted after discussion that the Life and Disability Guaranty Fund (B4) Subcommittee and the Property and Liability Guaranty Fund (B3) Subcommittee be merged into one subcommittee for the consideration of both life and disability and property and liability insurance problems.

Seeing no further business, the Subcommittee was adjourned at 2:10 p.m.

Clay Cotten, Chairman, Texas; Hon. Robert Hay, Vice-Chairman, Idaho; Hon. John J. ... Alaska; Hon. J. Richard Barnes, Colorado; Hon. Johnnie L. Caldwell, Georgia; Hon. A. Mauck, Illinois; Hon. William H. Huff III, Iowa; Hon. Fletcher Bell, Kansas; Hon. ... A. Bernard, Louisiana; Hon. Frank M. Hogarty, Jr., Maine.

UNFAIR TRADE PRACTICES ACT (B5) SUBCOMMITTEE

NAIC Proc. Vol. II p. 387

NAIC Proc. Vol. I p. 170

Hon. H. Huff III, Chairman - Iowa

Hon. D. O'Malley, Vice Chairman - Florida

AGENDA

Action on model regulation to implement the complaint handling procedure form.

Report of Task Force on Uniform Complaint Handling Procedures and Reporting Forms for Insurance Attorneys.

Any other matters brought before the Subcommittee.

LIFE AND DISABILITY GUARANTY FUND (B4) SUBCOMMITTEE

Reference

1971 Proc. Vol. II p. 386

1973 Proc. Vol. I p. 163

Hon. Clay Cotten, Chairman - Texas

Hon. Robert Hay, Vice Chairman - Idaho

AGENDA

1. Report of Task Force on finalized draft of Model Life and Health Insurance Guaranty Corporation Act presented at Zone V meeting in May 1973.
2. Report of Life and Disability Fund Task Force Committee on insolvency information to be used by the states in securing approval of Guaranty Fund Acts.
3. Any other matters brought before the Subcommittee.

The Life and Disability Guaranty Fund (B4) Subcommittee met on Wednesday, July 11, 1973, at 1:30 p.m. in the Central International Room of the Washington Hilton. Chairman Clay Cotten presided. A quorum was present.

The first item discussed was the report of the Task Force developing the draft of Model Life and Health Insurance Guaranty Corporation Act, as presented at the December 1972 meeting and further discussed at the Zone V meeting in May 1973. In view of the bills pending in several state legislatures, it was not felt practicable to present a final draft. It was further felt that, in view of Equity Funding Life developments, changes should be given to the problems arising from the liquidation of Equity Funding Life. It was moved and adopted by the Subcommittee that the Task Force be instructed to consider and develop a Model Life and Health Insurance Guaranty Corporation Act presented at the December 1973 NAIC meeting. It was reported that no information for use by Commissioners in securing approval of guaranty fund acts was forwarded to the NAIC Central Office. The Subcommittee will again renew its effort to secure this information for distribution by the Central Office.

It was pointed out by the Chairman that Texas has enacted a Life, Accident, Health, and Hospitalization Guaranty Fund Law. This bill is based on a post-funded assessment. It was also noted that Nevada had passed a Life, Accident, Health, and Annuity Guaranty Fund Act. The following states have enacted life and health insurance guaranty laws:

State	Remarks
Connecticut	NAIC Model Bill, in substance; partial tax offset
Kansas	NAIC Model Bill, full tax offset
Maryland	NAIC Model Bill, in substance; no tax offset
Nevada	
H.B. 738(73)	NAIC Model Bill, full tax offset
New York	Applicable only to domestic companies; no tax offset
South Carolina	NAIC Model Bill, in substance; full tax offset
Texas	
S. 777(73)	NAIC Model Bill, in substance; full tax offset

NAME:

E. W. Longworth

DATE:

Feb. 1-77

ADDRESS:

PHONE:

REPRESENTING WHOM?

State auditor

APPEARING ON WHICH PROPOSAL:

SB710

DO YOU:

SUPPORT?

☒

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Joseph M Driscoll DATE: 2-1-74

ADDRESS: _____

PHONE: _____

REPRESENTING WHOM? State Auditor - Ins Dept

APPEARING ON WHICH PROPOSAL: A B 710

DO YOU: SUPPORT? ☒ AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

BUSINESS AND INDUSTRY COMMITTEE

February 25, 1974

The Business and Industry Committee meeting was called to order this date at 10:30 a.m. with Chairman Mehrens presiding. Members absent included Reps Driscoll, Harper, Lockrem, Mercer and Swanberg.

SB 560 - Senator Harrison, chief sponsor, spoke in favor of this bill. He stated that it would repeal the limits which are imposed on group life insurance which can be written in the State of Montana. Montana is the last State to make the repeal. Phil Bird also spoke in favor of this bill. There were no opponents.

SB 710 - Senator Drake, chief sponsor, spoke in favor of this bill and submitted an amendment on page 25, line 18, by omitting the material "(7)" and inserting in lieu thereof the material "(8)". Other proponents included Josephine M. Driscoll (see attachment), Senator Hazelbaker and Phil Bird. There were no opponents.

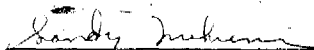
SB 495 - Senator Hazelbaker, chief sponsor, spoke in favor of this bill. John Risken, American Insurance Assn, submitted an amendment on page 1, section 1, line 13, after the word "insure" by inserting the following words "specific listed items of". Chad Smith, American Mutual Insurance Alliance, wanted to amend the bill to "except policies on depreciable items."

SB 560 - Rep Kessner moved that SB 560 BE CONCURRED IN. Rep Aageson seconded and the motion passed. Rep Kessner will carry it on the floor.

SB 710 - Rep Regan moved to adopt the amendment. The motion carried. Rep Regan moved that SB 710 AS SO AMENDED BE CONCURRED IN. The motion passed with Reps Rolfe, Aageson, Selstad and Kessner voting no. Rep Regan will carry it on the floor.

SB 495 - Rep Aageson moved the adoption of the amendment. Rep Quilici seconded and the motion carried. Rep Lien moved that SB 495 AS SO AMENDED BE CONCURRED IN. Rep Hageman seconded and the motion carried with Reps Kessner and Selstad voting no. Rep Lien will carry it on the floor.

The meeting adjourned at 11:26.


Sandy Mehrens, Chairman

WITNESS STATEMENT

Name Josephine M. Driscoll
 Address Capital Bldg
 Representing Miss Miss State Auditor
 Which Bill ? S. B. 710

Date 7/25/75
 Support ? V
 Oppose ? 0
 Amend ? 0

Comments:

Please leave prepared statement with the committee secretary.

SENATE BILL NO. 710

Introduced by: Drake, Hazelbaker, Carl, James, Moore, Lynch, Shea, Zody

A BILL FOR AN ACT ENTITLED: "MONTANA MODEL LIFE AND HEALTH INSURANCE
GUARANTY ASSOCIATION ACT."

In the interests of Consumer Protection, many years have been devoted by the National Association of Insurance Commissioners (NAIC) ~~to the preparation of the Model Life and Health Insurance Guaranty Association Act.~~

Connecticut, Kansas, Maryland, Nevada, New York, South Carolina, Texas, Vermont, Washington and Wisconsin have enacted life and health insurance guaranty legislation. California, Illinois, Colorado, Minnesota and Arizona have legislation pending at the present time. To our knowledge, there have not been any states in which such legislation was introduced and NOT passed.

This Act is to be distinguished from the Insurance Guaranty Association Act of 1971 which specifically excluded life and disability insurance. Unlike property and liability situations, life and annuity contracts in particular are long term arrangements for security. An insured may be in impaired health or at an advanced age so as to be unable to obtain new and equivalent coverage from other insurers. The payment of cash values alone does not adequately meet such needs. Thus it is essential that coverage be continued. In like manner, an insured may be unable to obtain new health insurance, or, at least, he may lose protection for prior illness.

This Act does not apply to reinsurance, - only to direct insurance issued by persons authorized to transact insurance in this state at any time. Coverage issued by insurers which have not submitted to the

application of the state's regulatory safeguards is excluded from protection by this Act.

"Impaired insurers" are defined to include (a) an insolvent insurer under an order of liquidation, rehabilitation, or conservation, or (b) an insurer deemed by the Commissioner to be unable or potentially unable to fulfill its contractual obligations. C

~~THIS ACT enables the Association to become involved prior to~~
an actual court order. The finding by the Commissioner ~~that an insurer is~~
impaired, even though not subject to a court proceeding, serves as a
triggering mechanism enabling the Association to function. The powers and
Duties of the Association are to guarantee, assume, or reinsure, or cause
to be guaranteed, assumed or reinsured, the covered policies of the impaired
insurer.

The Association also aids in the detection and prevention of
insurer impairments. These are basically the same prevention functions
found in the property and liability guaranty act.

E. V. "SONNY" OMHOLT
STATE AUDITOR & EX OFFICIO

COMMISSIONER OF INSURANCE

(Note: The NAIC Task Force has instructed their Standing Committee to keep informed and study further into the problems of guaranty acts and to determine whether recommendations should be made for changes in the NAIC Model Act at any future date, should unanticipated situations arise.)

**NAIC MODEL LIFE AND HEALTH INSURANCE
GUARANTY ASSOCIATION ACT
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**NAIC MODEL LIFE AND HEALTH INSURANCE
GUARANTY ASSOCIATION ACT**

Section 1. Title.

This Act shall be known and may be cited as the (state) Life and Health Insurance Guaranty Association Act.

COMMENT: This model act is to be distinguished from the NAIC model guaranty Association act for property and liability insurance. Although several philosophical and technical differences exist between this bill and the property and liability model act, to the extent possible and appropriate, provisions and the format of the latter are utilized in this model act.

Section 2. Purpose.

The purpose of this Act is to protect policyowners, insureds, beneficiaries, annuitants, payees, and assignees of life insurance policies, health insurance policies, annuity contracts, and supplemental contracts, subject to certain limitations, against failure in the performance of contractual obligations due to the impairment of the insurer issuing such policies or contracts. To provide this protection, (1) an association of insurers is created to enable the guaranty of payment of benefits and of continuation of coverages, (2) members of the Association are subject to assessment to provide funds to carry out the purpose of this Act, and (3) the Association is authorized to assist the Commissioner, in the prescribed manner, in the detection and prevention of insurer impairments.

COMMENT: The basic purpose of this model act is to protect policyowners, insureds, beneficiaries, annuitants, payees, and assignees against losses (both in terms of paying claims and continuing coverage) which might otherwise occur due to an impairment of an insurer. Unlike the property and liability situations, life and annuity contracts in particular are long term arrangements for security. An insured may be impaired

WITNESS STATEMENT

Name Don Frank Hawthorne

Date 11-17-64

Address _____

Support ? ☒

Representing author SP 495

Oppose ? ☐

Which Bill ? co author SP 710

Amend ? ☐

Comments:

C

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name PHIL BIRP

Date _____

Address 600 STUART

Support ? ☒

Representing ALIA

Oppose ? _____

Which Bill ? 710

Amend ? _____

Comments:

C

Please leave prepared statement with the committee secretary.

3-B-770

The American Life Insurance Association is opposed to the Montana Model Life and Health Insurance Guaranty Association Act for the following reasons:

- (1) The emphasis should be placed on more effective state regulations to prevent insolvency:
 - (a) Higher capital and surplus requirements.
 - (b) Insurance commissioner initiating more company examinations to discover any weakness.
 - (c) Weak companies should be then weeded out before problems begin.
 - (d) The insurance commissioners office should not close their eyes to stiffer regulations.
- (2) The bill is unfair to policy holders of sound life insurance companies.
- (3) The unfairness is compounded because of the long term nature of a life insurance contracts. Adjustments cannot be made as they can be made in the property and casualty field and their short term contracts.
- (4) The ALIA feels that the bill is an admission to the inadequacy the states insurance regulations and therefore putting the burden on the policy holder instead.

8-902. **Notice to advise public of availability of consumer counsel.** All forms of notice of public hearings conducted by the public service commission under this title, including all notices posted in public places or published in the legal advertising sections of newspapers, shall advise members of the consuming public of the existence of the office of the Montana consumer counsel and its availability to function on behalf of members of the consuming public.

Approved March 21, 1974

CHAPTER NO. 244

AN ACT AMENDING SECTION 59-1603, R.C.M. 1947, TO PROVIDE THAT ANY AGREEMENTS INVOLVING UNION SECURITY MUST SAFEGUARD THE RIGHTS OF NONASSOCIATION OF EMPLOYEES BASED ON BONA FIDE RELIGIOUS TENETS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 59-1603, R.C.M. 1947, is amended to read as follows:

"59-1603. **Employees' right to join or form labor organization and engage in collective bargaining activities.** (1) Public employees shall have, and shall be protected in the exercise of, the right of self-organization, to form, join or assist any labor organization, to bargain collectively through representatives of their own choosing on questions of wages, hours, fringe benefits, and other conditions of employment and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, free from interference, restraint or coercion.

(2) Public employees and their representatives shall recognize the prerogatives of public employers to operate and manage their affairs in such areas as but not limited to:

- (a) direct employees;
- (b) hire, promote, transfer, assign, and retain employees;
- (c) relieve employees from duties because of lack of work or funds or under conditions where continuation of such work be inefficient and non-productive;
- (d) maintain the efficiency of government operations;
- (e) determine the methods, means, job classifications, and personnel by which government operations are to be conducted;
- (f) take whatever actions may be necessary to carry out the missions of the agency in situations of emergency;
- (g) establish the methods and processes by which work is performed.

(3) Labor organizations designated in accordance with the provisions of this act are responsible for representing the interest of all employees in the exclusive bargaining unit without discrimination for the purposes of collective bargaining with respect to rates of pay, hours, fringe benefits, and other conditions of employment.

(4) Certification as an exclusive representative shall be extended or continued as the case may be only to a labor or employee organization the written bylaws of which provide for and guarantee the following rights and safeguards and whose practices conform to such rights and safeguards as: provisions are made for democratic organization and procedures; elections are conducted pursuant to adequate standards and safeguards; controls are provided for the regulation of officers and agents having fiduciary responsibility to the organization; and requirements exist for maintenance of sound accounting and fiscal controls including annual audits.

(5) *No public employee who is a member of a bona fide religious sect, or division thereof, the established and traditional tenets or teachings of which oppose a requirement that a member of such sect or division join or financially support any labor organization, may be required to join or financially support any labor organization as a condition of employment, if such public employee pays, in lieu of periodic union dues, initiation fees, and assessments, at the same time or times such periodic union dues, initiation fees, and assessments would otherwise be payable, a sum of money equivalent to such periodic union dues, initiation fees, and assessments, to a nonreligious, nonunion charity designated by the labor organization. Such public employee shall furnish to such labor organization written receipts evidencing such payments and failure to make such payments or furnish such receipts shall subject the employee to the same sanctions as would nonpayment of dues, initiation fees or assessments under the applicable collective bargaining agreement.*

A public employee desiring to avail himself or herself to the right of nonassociation with a labor organization as provided in this subsection shall make written application to the chairman of the board of personnel appeals. Within ten days of the date of receipt of such application, the chairman shall appoint a committee of three (3) consisting of a clergyman not connected with the sect in question, a labor union official not directly connected with the labor organization in question and a member of the public at large, who shall be the chairman. The committee shall, within ten (10) days of the date of its appointment, meet at the locale of either the employee's residence or place of employment and, after receiving written or oral presentations from all interested parties, determine by a majority vote whether or not such public employee qualifies for the right of nonassociation with such labor organization. The committee's decision shall be made in writing within three (3) days of the meeting date and a copy thereof shall be forthwith mailed to such public employee, labor organization and the chairman of the board of personnel appeals."

Approved March 21, 1974

CHAPTER NO. 245

MONTANA MODEL LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION ACT.

Be it enacted by the Legislature of the State of Montana:

Section 1. There is a new section to be numbered 40-5801, R.C.M. 1947, which reads as follows:

40-5801. **Title.** This act shall be known and may be cited as the Montana Life and Health Insurance Guaranty Association Act.

Section 2. There is a new section to be numbered 40-5802, R.C.M. 1947, which reads as follows:

40-5802. **Purpose.** The purpose of this act is to protect policyowners, insureds, beneficiaries, annuitants, payees, and assignees of life insurance policies, health insurance policies, annuity contracts, and supplemental contracts, subject to certain limitations, against failure in the performance of contractual obligations due to the impairment of the insurer issuing such policies or contracts. To provide this protection, (1) an association of insurers is created to enable the guaranty of payment of benefits and of continuation of coverages, (2) members of the association are subject to assessment to provide funds to carry out the purpose of this act, and (3) the association is authorized to assist the commissioner, in the prescribed manner, in the detection and prevention of insurer impairments.

Section 3. There is a new section to be numbered 40-5803, R.C.M. 1947, which reads as follows:

40-5803. **Scope.** (1) This act shall apply to direct life insurance policies, health insurance policies, annuity contracts, and contracts supplemental to life and health insurance policies and annuity contracts issued by persons authorized to transact insurance in this state at any time.

(2) This act shall not apply to:

(a) any such policies or contracts, or any part of such policies or contracts, under which the risk is borne by the policyholder;

(b) any such policy or contract or part thereof assumed by the impaired insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued.

Section 4. There is a new section to be numbered 40-5804, R.C.M. 1947, which reads as follows:

40-5804. **Construction.** This act shall be liberally construed to effect the purpose under section 2 [40-5802] which shall constitute an aid and guide to interpretation.

Section 5. There is a new section to be numbered 40-5805, R.C.M. 1947, which reads as follows:

40-5805. **Definitions.** As used in this act:

(1) "Account" means either of the three accounts created under section 6 [40-5806].

(2) "Association" means the Montana life and health insurance guaranty association created under section 6 [40-5806].

(2) The association shall come under the immediate supervision of the

(3) "Commissioner" means the commissioner of insurance of this state.

(4) "Contractual obligation" means any obligation under covered policies.

(5) "Covered policy" means any policy or contract within the scope of this act under section 3 [40-5803].

(6) "Impaired insurer" means

(a) an insurer which after the effective date of this act, becomes insolvent and is placed under a final order of liquidation, rehabilitation, or conservation by a court of competent jurisdiction, or

(b) an insurer deemed by the commissioner after the effective date of this act to be unable or potentially unable to fulfill its contractual obligations.

(7) "Member insurer" means any person authorized to transact in this state any kind of insurance to which this act applies under section 3 [40-5803].

(8) "Premiums" means direct gross insurance premiums and annuity considerations written on covered policies, less return premiums and considerations thereon and dividends paid or credited to policyholders on such direct business. "Premiums" do not include premiums and considerations on contracts between insurers and reinsurers. As used in section 9 [40-5809] "premiums" are those for the calendar year preceding the determination of impairment.

(9) "Person" means any individual, corporation, partnership, association or voluntary organization.

(10) "Resident" means any person who resides in this state at the time the impairment is determined and to whom contractual obligations are owed.

Section 6. There is a new section to be numbered 40-5806, R.C.M. 1947, which reads as follows:

40-5806. **Creation of the association.** (1) There is created a non-profit legal entity to be known as the Montana life and health insurance guaranty association. All member insurers shall be and remain members of the association as a condition of their authority to transact insurance in this state. The association shall perform its functions under the plan of operation established and approved under section 10 [40-5810] and shall exercise its powers through a board of directors established under section 7 [40-5807]. For purposes of administration and assessment, the association shall maintain three accounts:

(a) the health insurance account;

(b) the life insurance account; and

(c) the annuity account.

commissioner and shall be subject to the applicable provisions of the insurance laws of this state.

Section 7. There is a new section to be numbered 40-5807, R.C.M. 1947, which reads as follows:

40-5807. Board of directors. (1) The board of directors of the association shall consist of five (5) members serving terms as established in the plan of operation. The members of the board shall be selected by member insurers subject to the approval of the commissioner. Vacancies on the board shall be filled for the remaining period of the term in the manner described in the plan of operation. To select the initial board of directors, and initially organize the association, the commissioner shall give notice to all member insurers of the time and place of the organizational meeting. In determining voting rights at the organizational meeting each member insurer shall be entitled to one (1) vote in person or by proxy. If the board of directors is not selected within sixty (60) days after notice of the organizational meeting, the commissioner may appoint the initial members.

(2) In approving selections or in appointing members to the board, the commissioner shall consider, among other things, whether all member insurers are fairly represented.

(3) Members of the board may be reimbursed from the assets of the association for expenses incurred by them as members of the board of directors but members of the board shall not otherwise be compensated by the association for their services.

Section 8. There is a new section to be numbered 40-5808, R.C.M. 1947, which reads as follows:

40-5808. Powers and duties of the association. In addition to the powers and duties enumerated in other sections of this act,

(1) If a domestic insurer is an impaired insurer, the association may, prior to an order of liquidation or rehabilitation, and subject to any conditions imposed by the association other than those which impair the contractual obligations of the impaired insurer, and approved by the impaired insurer and the commissioner:

(a) guarantee or reinsure, or cause to be guaranteed, assumed, or reinsured, all the covered policies of the impaired insurer;

(b) provide such monies, pledges, notes, guarantees, or other means as are proper to effectuate subsection (a), and assure payment of the contractual obligations of the impaired insurer pending action under subsection (a);

(c) loan money to the impaired insurer.

(2) If a foreign or alien insurer is an impaired insurer, the association may, prior to an order of liquidation, rehabilitation, or conservation, with respect to the covered policies of residents and subject to any conditions imposed by the association other than those which impair the contractual

obligations of the impaired insurer, and approved by the impaired insurer and the commissioner:

(a) guarantee or reinsure, or cause to be guaranteed, assumed, or reinsured, the impaired insurer's covered policies of residents;

(b) provide such monies, pledges, notes, guarantees or other means as are proper to effectuate par. (a), and assure payment of the impaired insurer's contractual obligations to residents pending action under subsection (a);

(c) loan money to the impaired insurer.

(3) If a domestic insurer is an impaired insurer under an order of liquidation or rehabilitation, the association shall, subject to the approval of the commissioner:

(a) guarantee, assume, or reinsure, or cause to be guaranteed, assumed or reinsured the covered policies of the impaired insurer;

(b) assure payment of the contractual obligations of the impaired insurer; and

(c) provide such monies, pledges, notes, guarantees, or other means as are reasonably necessary to discharge such duties.

If the association fails to act within a reasonable period of time, the commissioner shall have the powers and duties of the association under this act with respect to such domestic impaired insurer.

(4) If a foreign or alien insurer is an impaired insurer under an order of liquidation, rehabilitation, or conservation, the association shall, subject to the approval of the commissioner:

(a) guarantee, assume, or reinsure or cause to be guaranteed, assumed, or reinsured the covered policies of residents;

(b) assure payment of the contractual obligations of the impaired insurer to residents; and

(c) provide such monies, pledges, notes, guarantees, or other means as are reasonably necessary to discharge such duties.

If the association fails to act within a reasonable period of time, the commissioner shall have the powers and duties of the association under this act with respect to such foreign or alien impaired insurer.

(5) (a) In carrying out its duties under subsections (3) and (4), the association may request that there be imposed policy liens, contract liens, moratoriums on payments, or other similar means and such liens, moratoriums, or similar means may be imposed if the commissioner:

(i) finds that the amounts which can be assessed under this act are less than the amounts needed to assure full and prompt performance of the impaired insurer's contractual obligations, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of policy or contract liens, moratoriums, or similar means to be in the public interest, and

(ii) approve the specific policy liens, contract liens, moratoriums, or similar means to be used.

(b) Before being obligated under subsections (3) and (4) the association may request that there be imposed temporary moratoriums or liens on payments of cash values and policy loans and such temporary moratoriums and liens may be imposed if they are approved by the commissioner.

(6) The association shall have no liability under this section for any covered policy of a foreign or alien insurer whose domiciliary jurisdiction or state of entry provides by statute or regulation, for residents of this state protection substantially similar to that provided by this act for residents of other states.

(7) The association may render assistance and advice to the commissioner, upon his request, concerning rehabilitation, payment of claims, continuations of coverage, or the performance of other contractual obligations of any impaired insurer.

(8) The association shall have standing to appear before any court in this state with jurisdiction over an impaired insurer concerning which the association is or may become obligated under this act. Such standing shall extend to all matters germane to the powers and duties of the association, including, but not limited to, proposals for reinsuring or guaranteeing the covered policies of the impaired insurer and the determination of the covered policies and contractual obligations.

(9) (a) Any person receiving benefits under this act shall be deemed to have assigned his rights under the covered policy to the association to the extent of the benefits received because of this act whether the benefits are payments of contractual obligations or continuation of coverage. The association may require an assignment to it of such rights by any payee, policy or contract owner, beneficiary, insured or annuitant as a condition precedent to the receipt of any rights or benefits conferred by this act upon such person. The association shall be subrogated to these rights against the assets of any impaired insurer.

(b) The subrogation rights of the association under this subsection shall have the same priority against the assets of the impaired insurer as that possessed by the person entitled to receive benefits under this act.

(10) The contractual obligations of the impaired insurer for which the association becomes or may become liable shall be as great as but no greater than the contractual obligations of the impaired insurer would have been in the absence of an impairment unless such obligations are reduced as permitted by subsection (5) but the association shall have no liability with respect to any portion of a covered policy to the extent that the death benefit coverage on any one life exceeds an aggregate of three hundred thousand dollars (\$300,000).

(11) The association may:

(a) enter into such contracts as are necessary or proper to carry out the provisions and purposes of this act;

(b) sue or be sued, including taking any legal actions necessary or proper for recovery of any unpaid assessments under section 9 [40-5809];

(c) borrow money to effect the purposes of this act. Any notes or other evidence of indebtedness of the association not in default shall be legal investments for domestic insurers and may be carried as admitted assets;

(d) employ or retain such persons as are necessary to handle the financial transactions of the association, and to perform such other functions as become necessary or proper under this act;

(e) negotiate and contract with any liquidator, rehabilitator, conservator, or ancillary receiver to carry out the powers and duties of the association;

(f) take such legal action as may be necessary to avoid payment of improper claims;

(g) exercise, for the purposes of this act and to the extent approved by the commissioner, the powers of a domestic life or health insurer, but in no case may the association issue insurance policies or annuity contracts other than those issued to perform the contractual obligations of the impaired insurer.

Section 9. There is a new section to be numbered 40-5809, R.C.M. 1947, which reads as follows:

40-5809. **Assessments.** (1) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account, at such times and for such amounts as the board finds necessary. The board shall collect the assessments after thirty (30) days written notice to the member insurers before payment is due.

(2) There shall be three classes of assessments, as follows:

(a) Class A assessments shall be made for the purpose of meeting administrative costs and other general expenses not related to a particular impaired insurer.

(b) Class B assessments shall be made to the extent necessary to carry out the powers and duties of the association under section 8 [40-5808] with regard to an impaired domestic insurer.

(c) Class C assessments shall be made to the extent necessary to carry out the powers and duties of the association under section 8 [40-5808] with regard to an impaired foreign or alien insurer.

(3) (a) The amount of any Class A assessment for each account shall be determined by the board. The amount of any Class B or C assessment shall be divided among the accounts in the proportion that the premiums received by the impaired insurer on the policies covered by each account bears to the premiums received by such insurer on all covered policies.

(b) Class A and Class C assessments against member insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies covered by each

account bears to such premiums received on business in this state by all assessed member insurers.

(c) Class B assessments for each account shall be made separately for each state in which the impaired domestic insurer was authorized to transact insurance at any time, in the proportion that the premiums received on business in such state by the impaired insurer on policies covered by such account bears to such premiums received in all such states by the impaired insurer. The assessments against member insurers shall be in the proportion that the premiums received on business in each such state by each assessed member insurer on policies covered by each account bears to such premiums received on business in each state by all assessed member insurers.

(d) Assessments for funds to meet the requirements of the association with respect to an impaired insurer shall not be made until necessary to implement the purposes of this act. Classification of assessments under subsection (2) and computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(4) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. The total of all assessments upon a member insurer for each account shall not in any one (1) calendar year exceed two percent (2%) of such insurer's premiums in this state on the policies covered by the account.

(5) In the event an assessment against a member insurer is abated, or deferred, in whole or in part, because of the limitations set forth in subsection (4), the amount by which such assessment is abated or deferred, shall be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. If the maximum assessment, together with the other assets of the association in either account, does not provide in any one (1) year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this act.

(6) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that amount, including assets accruing from net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses if refunds are impractical.

(7) It shall be proper for any member insurer, in determining its premium rates and policyowner dividends as to any kind of insurance within the scope of this act, to consider the amount reasonably necessary to meet its assessment obligations under this act.

(8) The association shall issue to each insurer paying an assessment under this act a certificate of contribution, in a form prescribed by the commissioner, for the amount so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the commissioner may approve.

Section 10. There is a new section to be numbered 40-5810, R.C.M. 1947, which reads as follows:

40-5810. Plan of operation. (1) (a) The association shall submit to the commissioner a plan of operation and any amendments thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation and any amendments thereto shall become effective upon approval in writing by the commissioner.

(b) If the association fails to submit a suitable plan of operation within one hundred eighty (180) days following the effective date of this act or if at any time thereafter the association fails to submit suitable amendments to the plan, the commissioner shall, after notice and hearing, adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of this act. Such rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.

(2) All member insurers shall comply with the plan of operation.

(3) The plan of operation shall, in addition to requirements enumerated elsewhere in this act:

(a) establish procedures for handling the assets of the association;

(b) establish the amount and method of reimbursing members of the board of directors under section 7 [40-5807];

(c) establish regular places and times for meetings of the board of directors;

(d) establish procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors;

(e) establish the procedures whereby selections for the board of directors will be made and submitted to the commissioner;

(f) establish any additional procedures for assessments under section 9 [40-5809];

(g) contain additional provisions necessary or proper for the execution of the powers and duties of the association.

(4) The plan of operation may provide that any or all powers and duties of the association, except those under sections 8 (11) (c) [40-5808 (11) (c)] and 9 [40-5809], are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this association, or its equivalent, in two (2) or more states. Such a corporation, association, or organization shall be reimbursed for any

payments made on behalf of the association and shall be paid for its performance of any function of the association. A delegation under this subsection shall take effect only with the approval of both the board of directors and the commissioner, and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by this act.

Section 11. There is a new section to be numbered 40-5811, R.C.M. 1947, which reads as follows:

40-5811. Duties and powers of the commissioner. (1) In addition to the duties and powers enumerated elsewhere in this act, the commissioner shall:

(a) notify the board of directors of the existence of an impaired insurer not later than three (3) days after a determination of impairment is made or he receives notice of impairment;

(b) upon request of the board of directors, provide the association with a statement of the premiums in the appropriate states for each member insurer;

(c) when an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time. Notice to the impaired insurer shall constitute notice to its shareholders, if any. The failure of the insurer to promptly comply with such demand shall not excuse the association from the performance of its powers and duties under this act;

(d) in any liquidation or rehabilitation proceeding involving a domestic insurer, be appointed as the liquidator or rehabilitator. If a foreign or alien member insurer is subject to a liquidation proceeding in its domiciliary jurisdiction or state of entry, the commissioner shall be appointed conservator.

(2) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative the commissioner may levy a forfeiture on any member insurer which fails to pay an assessment when due. Such forfeiture shall not exceed five percent (5%) of the unpaid assessment per month, but no forfeiture shall be less than one hundred dollars (\$100) per month.

(3) Any action of the board of directors or the association may be appealed to the commissioner by any member insurer if such appeal is taken within thirty (30) days of the action being appealed. Any final action or order of the commissioner shall be subject to judicial review in a court of competent jurisdiction.

(4) The liquidator, rehabilitator, or conservator of any impaired insurer may notify all interested persons of the effect of this act.

Section 12. There is a new section to be numbered 40-5812, R.C.M. 1947, which reads as follows:

40-5812. Prevention of impairments. To aid in the detection and prevention of insurer impairments:

(1) The board of directors shall, upon majority vote, notify the commissioner of any information indicating any member insurer may be unable or potentially unable to fulfill its contractual obligations.

(2) The board of directors may, upon majority vote, request that the commissioner order an examination of any member insurer which the board in good faith believes may be unable or potentially unable to fulfill its contractual obligations. The commissioner may conduct such examination. The examination may be conducted as a national association of insurance commissioners examination or may be conducted by such persons as the commissioner designates. The cost of such examination shall be paid by the association and the examination report shall be treated as are other examination reports. In no event shall such examination report be released to the board of directors of the association prior to its release to the public, but this shall not excuse the commissioner from his obligation to comply with subsection (3). The commissioner shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the commissioner but it shall not be open to public inspection prior to the release of the examination report to the public and shall be released at that time only if the examination discloses that the examined insurer is unable or potentially unable to meet its contractual obligations.

(3) The commissioner shall report to the board of directors when he has reasonable cause to believe that any member insurer examined at the request of the board of directors may be unable or potentially unable to fulfill its contractual obligations.

(4) The board of directors may, upon majority vote, make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer. Such reports and recommendations shall not be considered public documents.

(5) The board of directors may, upon majority vote, make recommendations to the commissioner for the detection and prevention of insurer impairments.

(6) The board of directors shall, at the conclusion of any insurer impairment in which the association carried out its duties under this act or exercised any of its powers under this act, prepare a report on the history and causes of such impairment, based on the information available to the association, and submit such report to the commissioner.

Section 13. There is a new section to be numbered 40-5813, R.C.M. 1947, which reads as follows:

40-5813. Appointment of association nominee. The association may recommend a natural person to serve as a special deputy to act for the commissioner and under his supervision in the liquidation, rehabilitation, or conservation, of any member insurer.

Section 14. There is a new section to be numbered 40-5814, R.C.M. 1947, which reads as follows:

40-5814. **Miscellaneous provisions.** (1) Nothing in this act shall be construed to reduce the liability for unpaid assessments of the insureds of an impaired insurer operating under a plan with assessment liability.

(2) Records shall be kept of all negotiations and meetings in which the association or its representatives are involved to discuss the activities of the association in carrying out its powers and duties under section 8 [40-5808]. Records of such negotiations or meetings shall be made public only upon the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired insurer, upon the termination of the impairment of the insurer, or upon the order of a court of competent jurisdiction. Nothing in this subsection shall limit the duty of the association to render a report of its activities under section 15 [40-5815].

(3) For the purpose of carrying out its obligations under this act, the association shall be deemed to be a creditor of the impaired insurer to the extent of assets attributable to covered policies reduced by any amounts to which the association is entitled as subrogee pursuant to section 8(9) [40-5808(9)]. All assets of the impaired insurer attributable to covered policies shall be used to continue all covered policies and pay all contractual obligations of the impaired insurer as required by this act. Assets attributable to covered policies, as used in this subsection, is that proportion of the assets which the reserves that should have been established for such policies bear to the reserve that should have been established for all policies of insurance written by the impaired insurer.

(4) (a) Prior to the termination of any liquidation, rehabilitation, or conservation proceeding, the court may take into consideration the contributions of the respective parties, including the association, the shareholders and policyowners of the impaired insurer, and any other party with a bona fide interest, in making an equitable distribution of the ownership rights of such impaired insurer. In such a determination, consideration shall be given to the welfare of the policyholders of the continuing or successor insurer.

(b) No distribution to stockholders, if any, of an impaired insurer shall be made until and unless the total amount of assessments levied by the association with respect to such insurer have been fully recovered by the association.

(5) It shall be a prohibited unfair trade practice for any person to make use in any manner of the protection afforded by this act in the sale of insurance.

(6) (a) If an order for liquidation or rehabilitation of an insurer domiciled in this state has been entered, the receiver appointed under such order shall have a right to recover on behalf of the insurer, from any affiliate that controlled it, the amount of distributions, other than stock dividends paid by the insurer on its capital stock, made at any time during the five years preceding the petition for liquidation or rehabilitation subject to the limitations of paragraphs (b) to (d).

(b) No such dividend shall be recoverable if the insurer shows that when paid the distribution was lawful and reasonable, and that the insurer did not know and could not reasonably have known that the

distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

(c) Any person who as an affiliate that controlled the insurer at the time the distributions were paid shall be liable up to the amount of distributions he received. Any person who was an affiliate that controlled the insurer at the time the distributions were declared, shall be liable up to the amount of distributions he would have received if they had been paid immediately. If two persons are liable with respect to the same distributions, they shall be jointly and severally liable.

(d) The maximum amount recoverable under this subsection shall be the amount needed in excess of all other available assets of the impaired insurer to pay the contractual obligations of the impaired insurer.

(e) If any person liable under paragraph (c) is insolvent, all its affiliates that controlled it at the time the dividend was paid, shall be jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

Section 15. There is a new section to be numbered 40-5815, R.C.M. 1947, which reads as follows:

40-5815. **Examination of the association — annual report.** The association shall be subject to examination and regulation by the commissioner. The board of directors shall submit to the commissioner, not later than May 1 of each year, a financial report for the preceding calendar year in a form approved by the commissioner and a report of its activities during the preceding calendar year.

Section 16. There is a new section to be numbered 40-5816, R.C.M. 1947, which reads as follows:

40-5816. **Tax exemptions.** The association shall be exempt from payment of all fees and all taxes levied by this state or any of its subdivisions, except taxes levied on real property.

Section 17. There is a new section to be numbered 40-5817, R.C.M. 1947, which reads as follows:

40-5817. **Tax — writeoffs of certificates of contribution.** (1) Unless a longer period has been allowed by the commissioner, a member insurer shall at its option have the right to show a certificate of contribution as an asset in the form approved by the commissioner pursuant to section 9 (8) [40-5809(8)], at percentages of the original face amount approved by the commissioner, for calendar years as follows:

One hundred percent (100%) for calendar year of issuance, eighty percent (80%) for the first calendar year after year of issuance, sixty percent (60%) for second calendar year after year of issuance, forty percent (40%) for third calendar year after year of issuance, twenty percent (20%) for fourth calendar year after year of issuance.

(2) The insurer may offset the amount written off by it in the calendar year under subsection (1) above, against its premium tax liability to this state accrued with respect to business transacted in such year.

(3) Any sums acquired by refund, pursuant to section 9 (6) [40-5809(6)], from the association which have therefore been written off by contributing insurers and offset against premium taxes as provided in subsection (2) above, and is not then needed for purposes for this act, shall be paid by the association to the commissioner and by him deposited with the state treasurer for credit to the general fund of this state.

Section 18. There is a new section to be numbered 40-5818, R.C.M. 1947, which reads as follows:

40-5818. **Immunity.** There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer or its agents or employees, the association or its agents or employees, members of the board of directors, or the commissioner or his representatives, for any action taken by them in the performance of their powers and duties under this act.

Section 19. There is a new section to be numbered 40-5819, R.C.M. 1947, which reads as follows:

40-5819. **Stay of proceedings — reopening default judgments.** All proceedings in which the impaired insurer is a party in any court in this state shall be stayed sixty (60) days from the date an order of liquidation, rehabilitation, or conservation is final to permit proper legal action by the association on any matters germane to its powers or duties. As to a judgment under any decision, order, verdict, or finding based on default the association may apply to have such judgment set aside by the same court that made such judgment and shall be permitted to defend against such suit on the merits.

Approved March 21, 1974

CHAPTER NO. 246

AN ACT AMENDING SECTION 75-8503.3, R.C.M. 1947, TO ALLOW PROHIBITION OF STUDENT REGISTRATION UNTIL ASSESSED TRAFFIC FINES ARE PAID.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 75-8503.3, R.C.M. 1947, is amended to read as follows:

"75-8503.3. **Motor vehicle regulation — enforcement of regulations — appeals.** The regents may authorize the president of each unit to:

(a) Assess fees not to exceed ten dollars (\$10) per quarter for parking on campus.

(b) Assess fines for violations of motor vehicle or parking regulations of each unit in an amount not to exceed one dollar (\$1) per offense; the

use of parking meters shall not be authorized unless installed prior to June 1, 1971.

(c) The proceeds from fines and fees collected shall be remitted to the unit at which collections are made to be used for appropriate maintenance and construction of parking facilities and for traffic control.

(d) Order the removal of vehicles parked in violation of motor vehicle regulations of each unit at the expense of the violator.

(e) Establish a system of appeals at each unit concerning parking violations.

(f) Withhold the amount of any unpaid parking fine from any amount owing any student, employee or faculty member, subject to the concurrence of the state auditor under the provisions of section 79-101.

(g) *To prohibit a student from registering if said student has unpaid parking assessments or fines outstanding resulting from on campus motor vehicle or parking violations within the previous one (1) year."*

Approved March 21, 1974

CHAPTER NO. 247

AN ACT DECLARING THE RIGHT TO REFUSE TO PARTICIPATE IN A STERILIZATION OPERATION; PROVIDING PENALTIES AND REMEDIES; AND AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. There is a new section to be numbered 69-5222, R.C.M. 1947, which reads as follows:

69-5222. **Definitions.** As used in this act:

(1) "Sterilization" means the performance of, or assistance or participation in the performance of, or submission to, an act or operation intended to eliminate an individual's reproductive capacity.

(2) "Person" includes one or more individuals, partnerships, associations, and corporations.

Section 2. There is a new section to be numbered 69-5223, R.C.M. 1947, which reads as follows:

69-5223. **Refusal to participate in sterilization.** (1) No private hospital or health care facility shall be required contrary to the religious or moral tenets or the stated religious beliefs or moral convictions of such hospital or facility as stated by its governing body or board to admit any person for the purpose of sterilization or to permit the use of its facilities for such purpose. Such refusal shall not give rise to liability of such hospital or health care facility, or any personnel or agent or governing board